

Applicants note that MPEP § 2136.05 allows Applicants to overcome a § 102(e) rejection if the cited patent describes Applicants' own work. More particularly, MPEP § 2136.05 states that "[i]n the situation where one application is first filed by inventor X and then a later application is filed by X & Y, it must be proven that the joint invention was made first, was thereafter described in the sole applicant's patent and then the joint application was filed."

In this case, the present application meets all of the requirements of MPEP § 2136.05: (1) the '653 patent was first filed (January 7, 1997) by sole inventor Farris; (2) the present application was later filed (March 19, 1997) as a joint application by Farris along with co-inventors Curry and Voit; and (3) the present joint application is explicitly referenced and described in the earlier-filed '653 patent (at col. 4, lines 11-32). Thus, the '653 patent is not a proper anticipating reference under 35 U.S.C. § 102(e). Withdrawal of the rejection is therefore respectfully requested.

Claims 1-2, 4-21 and 23-24 were provisionally rejected under 35 U.S.C. § 102(e) as being anticipated by co-pending Appln No. 08/815,361. Applicants respectfully traverse this rejection.

Applicants file along with this Response a Joint Declaration under 37 C.F.R. § 1.132 to show that any invention disclosed but not claimed in Appln. No. 08/815,361 was derived from the inventors of the present application and is therefore not the invention "by another". Withdrawal of the rejection is respectfully requested.

§ 103 rejections

Claims 5 and 10-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Farris. Applicants respectfully traverse this rejection. Claims 5 and 10-14 depend directly or indirectly on claim 1 and the rejection therefore fails to establish a prima facie case of obviousness for the reasons explained above. Withdrawal of the rejection is respectfully requested.

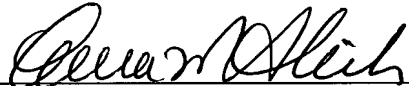
Claims 15-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Farris in view of U.S. Patent No. 5,903,558 to Jones et al. ("Jones"). Applicants respectfully traverse this rejection. Claims 15-20 depend directly or indirectly on claim 1 and the rejection therefore fails to establish a prima facie case of obviousness for the reasons explained above. Withdrawal of the rejection is respectfully requested.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited.

Any fees associated with the filing of this paper should be identified in any accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC.

Respectfully submitted,

Dated: 24 September 2001

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